

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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HOME RUN THE MOVIE, LLC,

Plaintiff,

-against-

WAKING GIANTS MEDIA GROUP,
LLC dba WAKING GIANTS, LLC,

Defendants.
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USDC SDNY
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ELECTRONICALLY FILED
DOC #
DATE FILED: 2-11-13

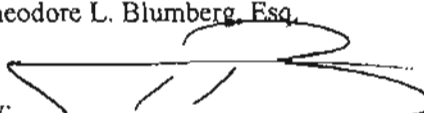
Case No. 13 CV 0073 (PAC)

STIPULATION DISCONTINUING ACTION WITHOUT PREJUDICE

This action is hereby discontinued without prejudice without costs to either party against the other. No party to this action is an infant or an incompetent person for whom a committee or conservatee has been appointed, and no person not a party has an interest in the subject matter of the action. *The Clerk of Court shall close this case.*


Dated: January 31, 2013
New York, New York

Theodore L. Blumberg, Esq.

By: 
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Attorney for Defendants

SO ORDERED: 

HON. PAUL A. CROTTY
UNITED STATES DISTRICT JUDGE

2-11-13

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—
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5 February 2013

By email

Hon. Paul A. Crotty
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Home Run The Movie, LLC v. Waking Giants Media Group,
LLC, Case no. 13 CV 0073 (PAC)

Honorable Sir:

As plaintiff's counsel I am writing to explain why a Stipulation of Discontinuance Without Prejudice was filed and presented to the Court yesterday.

I commenced this action in the Supreme Court of the State of New York, County of New York this past December. Approximately two days after I filed the Verified Complaint, the defendants filed a complaint in the United States District Court, Northern District of Oklahoma. The caption is styled *Waking Giants Media, LLC v. Home Run Movie, LLC*¹. Then they removed the action I filed here to this Court.

For a number of reasons, including the existence of an Oklahoma statute that affords attorney's fees to the prevailing party in a lawsuit over a contract for personal services, I advised my client Carol Mathews, Home Run's principal, that it made sense to litigate this case in Oklahoma, which is also where she lives. This fit the defendant's preference, confirmed by Evangelos Michailidis, Esq., defense counsel, to litigate the case there as well.

The lawyers in Oklahoma who will assume responsibility for this litigation came to an agreement whereby this action and the Oklahoma action will be discontinued without prejudice. Then plaintiff will file a new action in the Northern District to preserve its status as plaintiff, defendant will answer, and the litigation will play out in Oklahoma.

¹ 4:12 CV 00663 (GKF).

Hon. Paul A. Crotty
5 February 2013
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Yesterday, Wendy Levinson, my paralegal, filed a Stipulation of Discontinuance Without Prejudice through the ECF system. She checked to see if it had been properly filed and docketed and was told it had been presented to Your Honor. Thinking you might well wonder why the Stip is without prejudice and how it came about, I believed it would be prudent to explain. Should the Court wish, I will be glad to revise the Stipulation so it may be "So Ordered." However, the Court may rest assured that this case is forever off its docket. Consequently, I also respectfully suggest that the initial conference scheduled for February 11 be canceled.

Respectfully,

_____/s_____
Theodore L. Blumberg (TB9121)

Copies: Evangelos Michailidis, Esq. (by email)
Carol Mathews (by email)
Craig Fitzgerald, Esq. (by email)